

1  
2  
3  
4  
5  
6  
7  
8 **BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE**  
9 **MONTANA STATE AUDITOR**

10 In the Matter of

CSI Case Number: SEC-2016-106

11 ALEXANDER CAPITAL, L.P., a  
12 Montana licensed broker-dealer;  
13 WILLIAM GENNITY;  
14 JOSEPH CONNOLLY;  
15 FRANCINE LANAIA;  
16 BARRY EISENBERG;  
TIMOTHY STACK;  
ROCCO GUIDICIPIETRO; and  
RYAN MURNANE,

**CONSENT AGREEMENT AND  
FINAL ORDER**

Respondents.

17 This Consent Agreement and Final Order (Agreement) is entered into by the Office of the  
18 Montana State Auditor, Commissioner of Securities and Insurance (CSI), and Alexander  
19 Capital, L.P., Barry Eisenberg, Timothy Stack, and Rocco Guidicipietro, (collectively, AC  
20 Respondents) and William Gennity (collectively, with AC Respondents, Settling Respondents).  
21 The remaining Respondents—Joseph Connolly, Francine Lanaia, and Ryan Murnane—are not  
22 parties to this agreement.

23 **RECITALS**

24 WHEREAS, Respondent Gennity (CRD # 4913490) was registered in Montana as a  
25 securities salesperson from April 2012 until October 2014;

26 WHEREAS, Respondent Eisenberg (CRD #2313107) was registered in Montana as a  
27 securities salesperson but submitted the U5 and form BDW in November 2017;

1 WHEREAS, Respondent Alexander Capital (CRD #40077) was registered in Montana as  
2 a securities broker-dealer but submitted the U5 and form BDW in September 2018;

3 WHEREAS, Respondent Murnane (CRD #4784140) was registered in Montana from  
4 December 19, 2013 until July 17, 2015, and his registration was subject to a heightened  
5 supervision agreement required by the CSI to be administered by AC Respondents;

6 WHEREAS, the CSI alleges that AC Respondents violated Mont. Code Ann. § 30-10-  
7 201(13) by not fully complying with the heightened supervision conditions imposed on  
8 activities of Respondent Murnane, and by failing to reasonably supervise the salespersons or  
9 employees of Respondent Alexander Capital, L.P.;

10 WHEREAS, on February 8, 2016, the CSI informed Alexander Capital (not Gennity) in  
11 writing of a consumer complaint by C.G.;

12 WHEREAS, the CSI alleges that Settling Respondents violated the reporting  
13 requirements of Admin. R. Mont. 6.10.501; and

14 WHEREAS, the CSI and Settling Respondents agree that the best interests of the  
15 parties and the public would be served by entering into this Agreement.

16 NOW, THEREFORE, in consideration of the mutual undertakings contained in this  
17 Agreement, the parties agree to settle this matter with the following terms and conditions:

18 **STIPULATIONS AND CONSENTS**

19 I. **Settling Respondents** stipulate and consent to the following:

20 A. Settling Respondents neither admit nor deny the allegations stated in the  
21 Recitals above;

22 B. Respondent Alexander Capital agrees to pay restitution for C.G. in the amount  
23 of \$50,853.00, for Tri-G in the amount of \$9,686.00, and for S.K. in the amount of  
24 \$45,800.00. The total restitution payment of \$106,339.00 shall be made within 7 business  
25 days of the effective date of the Final Order. The payment shall be by check made to the  
26 Montana State Auditor and sent to:

27 Office of the Montana State Auditor  
c/o Legal Department



1 840 Helena Avenue  
2 Helena, MT 59601

3 C. Respondent Alexander Capital agrees to pay a fine of \$100,000.00 to the State  
4 of Montana within 7 business days of the effective date of the Final Order. The payment  
5 shall be by check made to the Montana State Auditor and sent to:

6 Office of the Montana State Auditor  
7 c/o Legal Department  
8 840 Helena Avenue  
9 Helena, MT 59601

10 D. Settling Respondents fully and forever release and discharge the CSI from any  
11 and all actions, claims, causes of action, demands, or expenses for damages or injuries,  
12 whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of  
13 this Agreement;

14 E. Settling Respondents specifically and affirmatively waive a contested case  
15 hearing and all rights to appeal under the Montana Administrative Procedure Act (Mont.  
16 Code Ann. § 2-4-101 et seq.), and elect to resolve this matter on the terms and conditions set  
17 forth herein;

18 F. Settling Respondents acknowledge that they were advised of the right to be  
19 represented by legal counsel and, if represented by legal counsel, that such legal  
20 representation was satisfactory.

21 II. **All parties** to this Agreement stipulate and consent as follows:

22 A. The CSI has jurisdiction over the subject matter of this matter. It is acting  
23 pursuant to the Securities Act of Montana, Mont. Code Ann. § 30-10-101 et seq.;

24 B. The CSI agrees to dismiss the Settling Respondents from this action without  
25 prejudice;

26 C. The CSI warrants and represents that so long as Settling Respondents comply  
27 with the terms of this Agreement, the CSI will not bring any further action against Settling  
Respondents arising from the allegations stated in the Second Amended Notice of Agency  
Action and Opportunity for Hearing filed in this matter May 26, 2017;

1 D. In the event any Settling Respondent violates any of the terms of this  
2 Agreement within one month from the date of execution of this Agreement, the CSI may  
3 engage in further regulatory action regarding the allegations stated in the Second Amended  
4 Notice of Agency Action and Opportunity for Hearing filed in this matter May 26, 2017, as  
5 well as any additional allegations stated in law;

6 E. This Agreement is entered without adjudication of any issue, law, or fact. It is  
7 entered solely for the purpose of resolving the CSI's investigation and allegations, and is not  
8 intended to be used for any other purpose. It provides no rights, remedies, liabilities, or  
9 defenses not specifically stated with regard to the signing parties;

10 F. This Agreement constitutes the entire agreement between the parties and no  
11 other promises or agreements, either express or implied, have been made by the CSI or by  
12 any member, officer, agent, or representative of the CSI to induce Settling Respondents to  
13 enter into this Agreement. This Agreement may not be modified orally, and any subsequent  
14 modifications to this Agreement must be mutually agreed upon in writing to be effective;

15 G. This Agreement shall be incorporated into and made part of the attached Final  
16 Order issued by the Commissioner;

17 H. This Agreement is considered executed and shall be effective upon signing of  
18 the attached Final Order; and

19 I. This Agreement is a public record under Montana law and as such may not be  
20 sealed or otherwise withheld from the public.

21  
22 DATE: 10/9/18

OFFICE OF THE MONTANA STATE AUDITOR,  
COMMISSIONER OF SECURITIES AND  
INSURANCE

23  
24  
25 BY: 

MICHAEL A. KAKUK  
Attorney for the CSI

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

DATE: 10/8/18

ALEXANDER CAPITAL, L.P.

BY: 

NAME: Rocco Guidici Pietro

TITLE: COO

DATE: \_\_\_\_\_

BARRY EISENBERG

DATE: 10/8/18

ROCCO GUIDICIPIETRO



DATE: \_\_\_\_\_

TIMOTHY STACK

DATE: \_\_\_\_\_

APPROVED AS TO FORM

BY: \_\_\_\_\_

KD FEEBACK

BRYAN WARD

Attorneys for Alexander Capital, L.P., Barry Eisenberg, Rocco Guidici Pietro, and Timothy Stack

DATE: \_\_\_\_\_

WILLIAM GENNITY

DATE: \_\_\_\_\_

APPROVED AS TO FORM

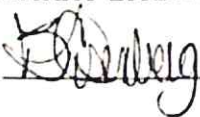
BY: \_\_\_\_\_

LIN DEOLA

ANTHONY VARBERO

Attorneys for William Gennity



1	DATE: _____	ALEXANDER CAPITAL, L.P.
2		BY: _____
3		NAME: _____
4		TITLE: _____
5		
6	DATE: <u>10/9/18</u>	BARRY EISENBERG
7		
8	DATE: _____	ROCCO GUIDICIPIETRO
9		_____
10		
11	DATE: _____	TIMOTHY STACK
12		_____
13		
14	DATE: _____	APPROVED AS TO FORM
15		BY: _____
16		KD FEEBACK
17		BRYAN WARD
18		Attorneys for Alexander Capital, L.P., Barry Eisenberg, Rocco Guidici Pietro, and Timothy Stack
19	DATE: _____	WILLIAM GENNITY
20		_____
21		
22	DATE: _____	APPROVED AS TO FORM
23		BY: _____
24		LIN DEOLA
25		ANTHONY VARBERO
26		Attorneys for William Gennity
27		

1 DATE: \_\_\_\_\_

ALEXANDER CAPITAL, L.P.

2 BY: \_\_\_\_\_

3 NAME: \_\_\_\_\_

4 TITLE: \_\_\_\_\_

5 DATE: \_\_\_\_\_

BARRY EISENBERG

7 DATE: \_\_\_\_\_

ROCCO GUIDICIPIETRO

9 DATE: 10/8/18

TIMOTHY STACK

*Timothy Stack*

11 DATE: \_\_\_\_\_

APPROVED AS TO FORM

13 BY: \_\_\_\_\_

KD FEEDBACK

BRYAN WARD

Attorneys for Alexander Capital, L.P., Barry  
Eisenberg, Rocco Guidici Pietro, and Timothy Stack

15 DATE: \_\_\_\_\_

WILLIAM GENNITY

17 DATE: \_\_\_\_\_

APPROVED AS TO FORM

19 BY: \_\_\_\_\_

LIN DEOLA

ANTHONY VARBERO

Attorneys for William Gennity


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

DATE: \_\_\_\_\_ ALEXANDER CAPITAL, L.P.  
BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

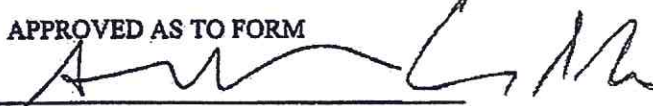
DATE: \_\_\_\_\_ BARRY EISENBERG  
\_\_\_\_\_

DATE: \_\_\_\_\_ ROCCO GUIDICIPIETRO  
\_\_\_\_\_

DATE: \_\_\_\_\_ TIMOTHY STACK  
\_\_\_\_\_

DATE: \_\_\_\_\_ APPROVED AS TO FORM  
BY:   
KD FEEBACK  
BRYAN WARD  
Attorneys for Alexander Capital, L.P., Barry  
Eisenberg, Rocco Guidici Pietro, and Timothy Stack

DATE: 10/8/2018 WILLIAM GENNITY  


DATE: 10/9/2018 APPROVED AS TO FORM  
BY:   
LIN DEOLA  
ANTHONY VARBERO  
Attorneys for William Gennity



1 **FINAL ORDER**


2 Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and §§ 30-10-101 et  
3 seq., and upon review of the foregoing Consent Agreement and good cause appearing,

4 **IT IS HEREBY ORDERED** that the foregoing Consent Agreement between the CSI  
5 and Respondents Alexander Capital, L.P., Barry Eisenberg, Timothy Stack, Rocco  
6 Guidici Pietro, and William Gennity (collectively, Settling Respondents) is adopted as if set  
7 forth fully herein.

8 Settling Respondents are dismissed from this action, case no. SEC-2016-106, without  
9 prejudice. Upon completion of the requirements of the Consent Agreement, Settling  
10 Respondents are dismissed from this action with prejudice.

11 Respondents Joseph Connolly, Francine Lanaia, and Ryan Murnane are specifically  
12 excluded from this Order.

13  
14 DATED this 9 day of October, 2018.

15  
16   
17 **MATTHEW M. ROSENDALE, SR.**  
18 Commissioner of Securities and Insurance  
19 Montana State Auditor  
20  
21  
22  
23  
24  
25  
26  
27